

IN THE SENATE

SENATE BILL NO. 1311

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO THE PUBLIC WORKS CONSTRUCTION MANAGEMENT LICENSING ACT; AMENDING SECTION 54-4503, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4511, IDAHO CODE, TO ESTABLISH PROVISIONS RELATING TO A CONSTRUCTION MANAGER AGENT, TO ESTABLISH PROVISIONS RELATING TO CONSTRUCTION MANAGER/GENERAL CONTRACTOR, TO REVISE PROVISIONS RELATING TO A PUBLIC ENTITY ENTERING INTO A CERTAIN CONTRACT FOR CERTAIN SERVICES AS A CONSTRUCTION MANAGER AGENT OR AS A CONSTRUCTION MANAGER/GENERAL CONTRACTOR AND TO ESTABLISH PROVISIONS RELATING TO COMPENSATION OF A CONSTRUCTION MANAGER; AND AMENDING SECTION 54-4512, IDAHO CODE, TO PROVIDE THAT A CONSTRUCTION MANAGER/GENERAL CONTRACTOR SHALL PROVIDE PAYMENT AND PERFORMANCE BONDS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-4503, Idaho Code, be, and the same is hereby amended to read as follows:

54-4503. DEFINITIONS. As used in this chapter:

(1) "Applicant" means an individual who applies for a license or interim license pursuant to the provisions of this chapter.

(2) "Board" means the public works contractors ~~state~~ license board established in section 54-1905, Idaho Code.

(3) "Construction manager" means an individual who performs construction management services.

(4) "Construction management services" means representation of an owner in public works construction, as defined in section 54-1901(2)(c), Idaho Code, by a person with substantial discretion and authority to plan including scheduling, estimating and approval, coordinate, manage or direct phases of a project for the construction, demolition, alteration, repair or reconstruction of any public work. ~~This definition shall not include general contracting services provided by public works contractors who actually perform the work of construction, alteration, repair or reconstruction.~~ This definition shall not include services for which the laws of this state require a person to be licensed as an architect or registered as a professional engineer, nor shall it include services traditionally and customarily provided by licensed architects or registered professional engineers.

(5) "Firm" means any business organization, including individuals, partnerships, corporations, associations or any combination thereof acting as a unit.

(6) "Licensure" means the issuance of a license to an applicant under the provisions of this chapter authorizing such individual to offer and perform construction management services.

(7) "Person" includes an individual, partnership, corporation, association or other organization.

SECTION 2. That Section 54-4511, Idaho Code, be, and the same is hereby amended to read as follows:

54-4511. BIDDING AWARD OF CONTRACTS -- DUAL CAPACITY. (1) Construction manager agent (CMA). A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act only as agent for an owner. In soliciting bids or awarding contracts for public works construction to be entered into by the owner, a licensed construction manager agent shall comply with all notice and bidding laws with which an owner would be required to comply if it were to do the same activities without the assistance of a construction manager.

~~(2)~~ A licensed construction manager agent and the firm of which he is a principal or employee shall not provide construction management services for a construction project on which the licensed construction manager or his firm also provides design services or other construction related services, whether as a contractor or subcontractor. Provided however, that this section shall not preclude a licensed architect or registered professional engineer from providing public works construction management services which are normally provided by licensed architects or registered professional engineers for a project on which the person or firm has provided design services. Such public works construction management services provided by a licensed architect or registered professional engineer shall not include the procurement of equipment or construction work required by law to be competitively bid for public works construction.

(2) Construction manager/general contractor (CM/GC). A licensed construction manager and the firm of which he is a principal or full-time employee may be awarded a contract to act as both construction manager and general contractor provided the construction manager/general contractor has a valid public works contractor license as a general contractor pursuant to section 54-1902, Idaho Code.

(3) No public entity shall enter into a contract with any person or firm for construction management services as construction manager agent or as construction manager/general contractor if such person or firm is required to be licensed under this chapter unless:

(a) Such person holds a valid license or such firm holds a valid certificate issued pursuant to this chapter; and

(b) The selection of such construction manager agent or construction manager/general contractor is made pursuant to section 67-2320, Idaho Code.

(4) Compensation of a construction manager shall be determined pursuant to section 67-2320, Idaho Code. At such time as the design of a project is available, the construction work, materials and equipment for construction of a project may be incorporated into the construction manager/general contractor contract based upon bids solicited from licensed public works contractors and from suppliers. All construction work, materials and equipment shall be competitively bid to be opened publicly in the presence of a representative of the public body for whom the project is undertaken and shall be awarded to the lowest responsible bidders. The construction manager/general contractor, or its subsidiaries and affiliated companies, may bid to perform construction work or supply materials or equipment for which

1 it holds a valid license pursuant to section 54-1902, Idaho Code, and which
2 it customarily self-performs or supplies.

3 SECTION 3. That Section 54-4512, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 54-4512. REQUIREMENT OF BOND. A licensed construction manager agent
6 or firm providing public works construction management services shall be
7 required to post a payment and performance bond or bonds in the amount of the
8 total construction management contract to secure the construction manager's
9 obligations thereunder. A construction manager/general contractor shall
10 provide payment and performance bonds to secure construction of the project
11 in the amounts required in section 54-1926, Idaho Code.